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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,318	06/01/2004	Michael F. Oyaski	MFO 04060	9279
7590 03/07/2006				
JAMES RAY & ASSOCIATES 2640 PITCAIRN ROAD MONROEVILLE, PA 15146				
			EXAMINER BOGART, MICHAEL G	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/790,318

Applicant(s)

OYASKI, MICHAEL F.

Examiner

Michael G. Bogart

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-7, drawn to an adhesive open encapsulating device, classified in class 604, subclass 307.
- II. Claims 8-13, drawn to an enclosed bladder member, classified in class 607, subclass 96.
- III. Claims 14-22, drawn to a body suit member, classified in class 601, subclass 166.

Inventions I, II and III are related as products which share an alleged common utility of surrounding and applying treatment to a body member but the common utility is not linked to a substantial structural feature. The products in this relationship are distinct if either or both of the following can be shown: (1) that the products encompass embodiments that are not required to perform the common utility or (2) that the products as claimed can be used to perform another utility. In this case, I performs by directly bringing fluid into contact with a wound. II performs by separating treating fluid from a wound as the fluid is enclosed in a bladder. III performs as a bodysuit that surrounds a person. I does not require a body suit. III does not require adhesive attachment to a portion of the body.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

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During a telephone conversation with James Ray on 27 February 2006 a provisional election was made without traverse to prosecute the invention of III, claims 14-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Objections***

Claims 14-16 are objected to because of the following informalities:

Claims 14-16 alternatively refer to "bodysuit member" and "bodysuit" multiple times to refer to the same element. To keep terminology in the claims consistent, applicants should only use one of these names to describe this element.

In claims 14, line 8, replace "permit" with --permits--.

Appropriate correction is required.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Eriksson (US 5,152,757 A) in view of Lockwood *et al.* (US 6,685,681 B2).

Regarding claim 14, Eriksson teaches a device capable of both treating and promoting healing of damaged body tissue, said device comprising;

a bodysuit member (60) having each of a predetermined size and a predetermined shape, said bodysuit (60) having an outer surface facing atmosphere and an inner surface facing a body area of a person to be treated; and

at least one fluid transfer means (88) sealingly engaged with said bodysuit space and disposed in fluid communication with a space located between said inner surface of said bodysuit and said damaged body tissue for allowing communication of at least one predetermined fluid medium to such space disposed between said inner surface of said bodysuit and such damaged body tissue thereby enabling such damaged body tissue (see fig. 15, below)(abstract).

Eriksson does not expressly teach that the inner surface of the bodysuit member is textured.

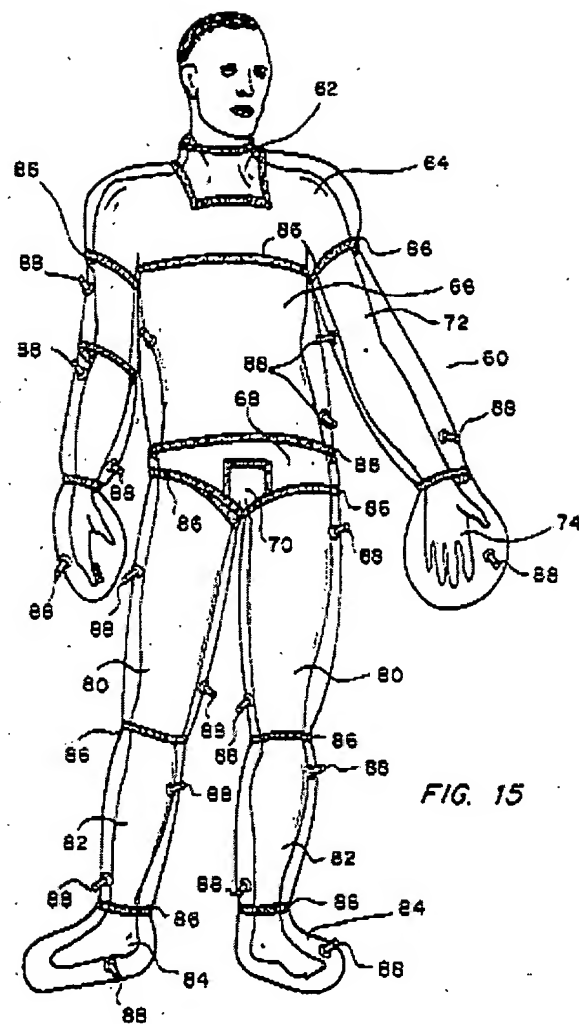
Eriksson teaches a vacuum bandage that includes a wound-contacting layer (20) with a texture (28) which channel fluids (see fig. 16, below).

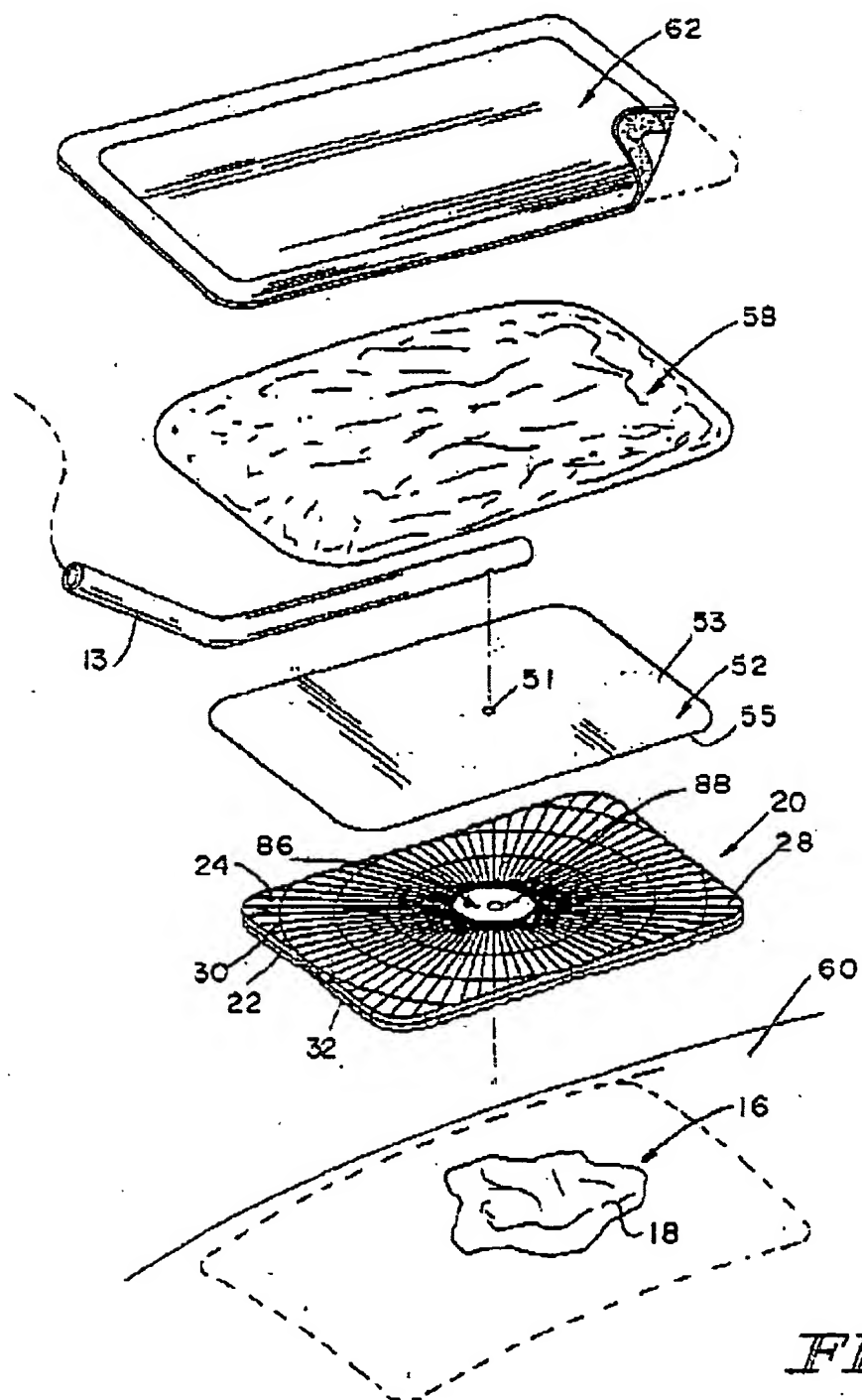
At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the textured channels of Lockwood *et al.* to the system of Eriksson in order to provide fluid flow channels even in portions of the system that are compressed by a wearer's bodyweight, so fluid can circulate.

Regarding claim 15, Eriksson teaches transparency (col. 2, line 34).

Regarding claim 16-18, Eriksson teaches multiple ports (88).

Regarding claims 19-22, Eriksson teaches that the fluid is a liquid medication, painkiller or both (col. 6, lines 55-68).





***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
27 February 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

